UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
PATEL, JAGDISH

ART UNIT	PAPER NUMBER
3693	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

		Application No.	Applicant(s)
Office Action Summary		10/627,547	BAUER ET AL.
		Examiner	Art Unit	
		JAGDISH PATEL	3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 July 2007*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-15,17-30 and 32-69* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-15,17-30 and 32-69* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1.   This communication is in response to amendment filed July 18, 2007.

Response to Amendment

2.   Claim 69 has been amended. Presently claims 1, 3-15, 17-30 and 32-69 are currently

pending.

Response to Arguments

3.   Finality of the previous office action dated May 18, 2007 has been withdrawn.

Applicant's arguments with respect to claims 1, 3-15, 17-30, and 32-61
have been considered but are moot in view of the new ground(s) of rejections.

Claim Rejections - 35 USC § 103

4.   Claims 1, 5, 6, 15, 19, 20, 29-30, 32, 33, 54, 62-65 and 66-68 are rejected under 35
U.S.C. 103(a) as being unpatentable over Yuen (US Pat. 7024376) (Hereafter Yuen) .

Claim 1: Yuen teaches an online auction system for enabling bidding over a computer

network by remotely located bidders utilizing computing devices for receiving information to be

provided to a bidder and transmitting bid information of the bidder, (refer to abstract, "two

phase auction") comprising:

one or more servers configured to provide an auction service having 1) a preliminary
bidding component conducted over the computer network, the preliminary bidding component
offering for auction a (plurality of items), each item being offered for a pre-established duration
of time, the preliminary bidding component resulting in a final preliminary bid for (each of the
plurality) of items;

(see at least Summary of the Invention, "first phase")

and 2) a dynamic real-time auction component conducted over the computer network, beginning after closing of the preliminary bidding component upon expiration of the pre-established duration of time, the dynamic auction component offering for auction each (of the plurality of) items from the preliminary auction component, the dynamic auction component defining a starting bid for each (of the plurality of items) in the dynamic auction component based on the respective final preliminary bid from the preliminary bidding component, the dynamic auction component being configured to receive dynamic bids over the computer network and to apply the dynamic bids in real time,.

(see at least Summary of the Invention, "second phase")

Yuen fails to teach that the two phases applies to a plurality of items (see at least

Summary of the Invention, " price of like items". Alternatively, recent ruling (KSR vs.

Teleflex Inc.), the Supreme Court has established a standard for obviousness stating the

following:

"When a work is available in one field of endeavor, design incentives and other market forces can prompt

variations of it, either in the same field or a different one. If a person of ordinary skill can implement a predictable

variation, §103 likely bars its patentability. For the same reason, if a technique has been used to improve one device,

and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way,

using the technique is obvious unless its actual application is beyond his or her skill. *Sakraida* and *Anderson's-Black*

Rock are illustrative—a court must ask whether the improvement is more than the predictable use of prior art

elements according to their established functions."

Applying this guidance, the examiner asserts that the claimed invention would have been

obvious to one of ordinary skill in the art to improve Yuen so plurality of items are offered for a

pre-established duration of time in preliminary bidding component using any known auction

format (i.e. first phase of auction in Yuen) and begin the dynamic real-time component (i.e.

second phase of auction in Yuen) because the both scenarios achieve the same predictable result

(establish a price of each item close to its market value and then induce competition among the market participants to offer competitive bidding for further price improvement). In this manner it is established that the claimed invention(s) is predictable variation of what is disclosed in the prior art and therefore the on this basis the claim is rejected under 35 USC §103.

Independent claims 15 recites offering preliminary bidding "plurality of items" and "final preliminary bid for each of the plurality items" then offering real-time bidding for each of the plurality of items from the preliminary bidding after the closing of the preliminary bidding. The examiner takes official notice of the fact that offering a plurality of items for auction for a pre-established time duration is old and well-known (example, e-bay, QVC etc.). Furthermore, the prior art, whereas, does not explicitly disclose that first phase and the second phase are applied to a plurality of items, is scalable to a plurality of items in view of the officially taken notice and further in view of the aforementioned KSR ruling in order that one of ordinary would recognize benefits (time saving, cost effectiveness or economics etc.) of offering a plurality of items concurrently having their respective closing times.

Claim 33: refer to claim 1 analysis.

Claims 54 correspond to claim 33 because the structure and functionality of the claimed system are not distinct from each other. Claim 33 is directed to an online auction while claim 54 is directed to online sale over a computer network. However, the structure of the claims is not distinct. Therefore same rationale of prior rejection as claim 33 also applies to claim 54. Note also that this comment also applies to all independent "system claims".

Claims 62-65 and 66-68: Yuen teaches that the software solicits offers for sale of the item Thus, the bids received in response are non-proxy bids. Furthermore, per claims 63 and 67 the

software applies the dynamic bids (offers for sale) against one another (this is inherent since it

must select the winning bid amongst the presented offers) and does not include a live in-person

action.

5.   Claim 69 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yuen as

applied to claim 1 above and further in view of DINWOODIE (US Pat. 6415269)

As per claim 69, DINWOODIE teaches displaying over the computer network
.geographic location of at one bidder associated with the at least dynamic bid (Display 32
generates the current bid, the location of the bidder, and bidder identification. Auctioneer 24 is
also provided with bid acceptance information at step 84. At this point 'in the bidding process of
the auction, each participant receives real-time information acknowledging bid receipt and the
present status of the auction. All participants in the auction know the location of the bidder, the
amount of the accepted bid in the participant's currency value, and the **bidder** identification
number of the accepted bid). (see at least col. 5 L 48-59). It would have been obvious to one of
ordinary skill in the art to have the geographic information of the bidders provided in order to
inform the other bidders regarding the local currency of the bidder.

5.   Claims 3, 4, 13, 14, 17, 18, 27, 28 34-39, 44-49, 55, 57, 58, 60 and 61 are rejected under

35 U.S.C. 103(a) as being unpatentable over Yuen as applied to claim 1 above, and further in

view of Handler.

Claims 3, 4, 13-14, 17, 18, 27-28, 34-39, 44-49, 55, 57, 58, 60 and 61 are

rejected under 35 U.S.C. 103(a) as being unpatentable over Yuen and further in view of Handler.

Claims 3, 4,   13-14 and 27-28: Yuen, fails to teach, however, Handler teaches that

proxy bids are accepted during an auction   (see proxy bidding process, p. 5 L 33-36).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify Johnson in view of Handler because this would improver efficiency of the

auction by allowing more bidders to participate because this would eliminate the need of the

bidder to be physically present.

Method claims 17 and 18 correspond to system claims 3-4 respectively and are analyzed

as such.

Claims 34-38 and 44-48 are inherently disclosed in Handler reference. For example,

Handler teaches at p. 6 L 11 described various stages of the "integrated auction". Note that the

"live auction" commences after the closing of the "online auction" and that the additional proxy

bids are only accepted after the conclusion of the live auction. Claims 44-48 are also analyzed

accordingly because they correspond to claims 34-38 respectively.

Claim 39 and 49: Handler teaches first bidding format (proxy bidding) and the dynamic

real-time auction component provides a different bidding format (see Integrated Auction Flow, p.

6).

Claim 55 and 58 : Johnson and O/N discloses this feature inherently because, if during

the second stage (live auction stage) no higher bid than the starting bid established during the

preliminary bidding stage is received the starting bid would be the highest bid and therefore a

winning bid.

Claims 57: the dynamic auction component is configured to accept, for each of the

plurality of the items, a dynamic bid greater than the final preliminary bid received for the

respective item during the preliminary bidding component (inherent in the Handler apparatus

because the objective of the second stage of the integrated auction is maximize price of the one

more items offered in the auction).

Claims 60 and 61: refer to discussion of claim 57.

6.   Claims 5, 6, 19,20, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Yuen and further in view of Johnson.

Regarding claims 5 and 6: Johnson teaches countdown timer displayed on a screen of

each of the ..bidder.. (see Figure 9). (see further analysis provided for claim 29).

Claims 19, 20 are rejected on similar ground as claims 5 and 6.

Regarding claim 29: Yuen fails to teach, however, Johnson (see analysis provided

below), teaches countdown timer displayed on a screen of each of the ..bidder.. (see Figure 9).

It would have been obvious to modify Yuen per Johnson to provide for the countdown

timer in order to prompt and encourage the bidder to respond in a timely manner.

All other limitations of claim 29 have been analyzed per claims 1 and 15.

7.   Claims 41 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yuen in

view of O/N as applied to claim 1 as analyzed above, and further in view of Walker (US

20060224497, Priority us-provisional-application US 60152119 19990902).

Yuen and O/N combined fail to teach, however, Walker (US 20060224497, Priority us-
provisional-application US 60152119 19990902) teaches behavior of the bidders (bid increment)
as a function of the time allotted between dynamic bids (see Summary).

It would be obvious to one of ordinary skill in the art at the time of applicant's invention
to modify Johnson and O/N combination in view of Walker to decrease the time allotted between
dynamic bids because this would influence the behavior of one or more bidders in an auction
may influence another bidder's perception of the value of the item.

8.   Claims 42-43 and 52-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Yuen in view of O/N as applied to claim 1 as analyzed above, and further in view of Peterson

(CA 2329281), Publication 06/21/2002.

Claims 42-43 and 52-53: Yuen and O/N fails to teach that the real-time component is

configured to provide, for each of the plurality of items, a matrix of selectable bid amounts for

selection by a user.   Peterson, in the same field of endeavor teaches buttons, which enable the

bidders to select, bids from different adaptive (dynamic) bid increments in a dynamic auction.

(see p.3 and 4).

It would have been obvious to one of ordinary skill in the art at the time of the invention

to modify Yuen and O/N by incorporating a matrix of selectable bid amounts as per teaching of

Peterson because this would spur additional bidding activity in a dynamic auction environment

because the bidder would be enabled to enter bids faster and accurately, where short time period

is available to each bidder to select and enter the next bid vb.

9.   Claims, 7-12, 21-26,   40, 50, 56 and 59 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Yuen as applied to claim 1 and further in view of the Official Notice.

Regarding claims 7-12, Yuen fails to teach, however, further Official Notice is taken that
alerting bidder or potential customers for various upcoming events via various communication
means such as electronic mail, instant message etc. is old and well known in the electronic
commerce.

It would have been obvious to one of ordinary skill in the art at the time of applicant's
invention to implement means for altering the bidders based on this Official Notice because this
would allow more bidders to participate in the auction.

Method claims 21-26 correspond to system claims 7-12 respectively.

10.   Claims 40 and 50: Yuen fails to teach offering the plurality of items for bid

simultaneously, and the dynamic real-time auction component offering the items individually.

However, offering a plurality of items simultaneously and offering items individually for sale

over a computer network is old and well known and the examiner takes official notice of this

feature.

It would have been obvious to one of ordinary skill in the art at the time of applicant's
invention to modify Handler in view of the officially noticed facts to offer the plurality of items
in various formats as matter of auctioneer's business decision.

12. Claims 56 and 59: recites computerized feature equivalent to "going once, going twice,
gone" which is customary in the traditional auctions. It would have been obvious to one of
ordinary skill in the art at the time of applicant's invention to modify Handler to configure the
dynamic auction in Handler accordingly in order to alert the bidders of the impending closing of
the auction.

 Claims 62-65 and 66-68: Yuen teaches that the software solicits offers for sale of the item Thus,

the bids received in response are non-proxy bids. Furthermore, per claims 63 and 67 the software

applies the dynamic bids (offers for sale) against one another (this is inherent since it must select

the winning bid amongst the presented offers) and does not include a live in-person action.

Claim Rejections - 35 USC § 103

7.   Claims 1, 5, 6, 15, 19, 20, 29-30, 32, 33, 54 and 63 are rejected under 35 U.S.C. 103(a)

as being unpatentable over **Johnson, Richard C. (WO 03/027806A2)** (hereafter, referred

to as **Johnson**) and further in view of officially taken notice (O/N).

Per claim 1, Johnson teaches an online auction system for enabling bidding over a computer

network by remotely located bidders utilizing computing devices for receiving information to be

provided to a bidder and transmitting bid information of the bidder, (refer to abstract, "two

phase auction") comprising:

one or more servers configured to provide an auction service having 1) a
preliminary bidding component conducted over the computer network, the
preliminary bidding component offering for auction a (plurality of items), each item
being offered for a pre-established duration of time, the preliminary bidding
component resulting in a final preliminary bid for (each of the plurality) of items;

[(p. 4 l 25+ - p. 6 l 5) a remote server which is configured to conduct a two phase
auction, refer to description of the first phase which corresponds to the preliminary
bidding component.]

and 2) a dynamic real-time auction component conducted over the computer
network, beginning after closing of the preliminary bidding component upon
expiration of the pre-established duration of time, the dynamic auction component
offering for auction each (of the plurality of) items from the preliminary auction
component, the dynamic auction component defining a starting bid for each (of the
plurality of items) in the dynamic auction component based on the respective final
preliminary bid from the preliminary bidding component, the dynamic auction
component being configured to receive dynamic bids over the computer network and
to apply the dynamic bids in real time,.

[(p. 4 l 25+ - p. 6 l 5) a remote server, which is configured to conduct a two phase
auction, refers to description of the second phase, which corresponds to the dynamic
real-time auction component.].

Johnson teaches that the preliminary bidding is offered for the item for a pre-

established duration of time (defined at page 3, second para ..until no additional bids

are received, however, one of ordinary skill in the art may recognize that in the event

of no bids receiving the auctioneer would close the auction for the pre-determined

time period). Johnson fails to teach that the two phases applies to a plurality of items (see at

least Summary of the Invention, " price of like items". Alternatively, this modification would

have been obvious to an ordinary person skilled in the art. Noting that (KSR vs. Teleflex Inc.),

the Supreme Court has established a standard for obviousness stating the following:

"When a work is available in one field of endeavor, design incentives and other market forces can prompt

variations of it, either in the same field or a different one. If a person of ordinary skill can implement a predictable

variation, §103 likely bars its patentability. For the same reason, if a technique has been used to improve one device,

and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way,

using the technique is obvious unless its actual application is beyond his or her skill. *Sakraida* and *Anderson's-Black*

Rock are illustrative—a court must ask whether the improvement is more than the predictable use of prior art

elements according to their established functions."

Applying this guidance, the examiner asserts that the claimed invention would have been

obvious to one of ordinary skill in the art to improve Johnson, by implementing the concept of

price improvement suggested by Johnson in a variety of known auction formats, so plurality of

items are offered for a pre-established duration of time in preliminary bidding component (i.e.

first phase of auction in Yuen) and begin the dynamic real-time component (i.e. second phase of

auction in Yuen) because the both scenarios achieve the same predictable result (establish a price

of each item close to its market value and then induce competition among the market participants

to offer competitive bidding for further price improvement). In this manner it is established that

the claimed invention(s) is predictable variation of what is disclosed in the prior art and therefore

the on this basis the claim is rejected under 35 USC §103.

Regarding claims 5 and 6: Johnson teaches countdown timer displayed on a screen of each of the ..bidder.. (see Figure 9).

Claim 15 recites underlying method performed by the apparatus claim 1.

Independent claims 15 recites offering preliminary bidding "plurality of items" and "final preliminary bid for each of the plurality items" then offering real-time bidding for each of the plurality of items from the preliminary bidding after the closing of the preliminary bidding. The examiner takes official notice of the fact that offering a plurality of items for auction for a pre-established time duration is old and well-known (example, e-bay, QVC etc.). Furthermore, the prior art, whereas, does not explicitly disclose that first phase and the second phase are applied to a plurality of items, is scalable to a plurality of items in view of the officially taken notice and further in view of the aforementioned KSR ruling in order that one of ordinary would recognize benefits (time saving, cost effectiveness or economics etc.) of offering a plurality of items concurrently having their respective closing times. In other words same benefits that Johnson is seeking to auction a single item would be realized for a plurality of items. Thus, the claimed invention is treated as variation of Johnson as would be recognized by one skilled in the art.

Claims 19, 20 are rejected on similar ground as claims 5 and 6.

Regarding claims 29-30 and 32: all limitations of these claims have been addressed in view of claim 1 analysis and further in view of teaching by Johnson at Fig. 9 and description at p. 14 L 22 – p. 15 L 20.

Regarding claim 63 it is inherent that in an auction wherein a plurality of bidders participate the bids are applied against one another.

Per claims 33 and 34 Johnson teaches an online auction system for enabling bidding over a computer network by remotely located bidders utilizing computing devices for receiving information to be provided to a bidder and transmitting bid information of the bidder, (refer to abstract, "two phase auction") comprising:

one or more servers configured to provide an auction service having 1) a preliminary bidding component conducted over the computer network, the preliminary bidding component offering for auction at least one item, the item being offered for a pre-established duration of time, the preliminary bidding component resulting in a final preliminary bid for the at least one item of items;

[(p. 4 l 25+ - p. 6 l 5) a remote server which is configured to conduct a two phase auction, refer to description of the first phase which corresponds to the preliminary bidding component.

and 2) a dynamic real-time auction component conducted over the computer network, beginning after closing of the preliminary bidding component upon expiration of the pre-established duration of time, the dynamic auction component offering for auction the at least one item from the preliminary auction component, the dynamic auction component defining a starting bid for the in the dynamic auction component based on the final preliminary bid from the preliminary bidding component, the dynamic auction component being configured to receive dynamic bids over the computer network and to apply the dynamic bids in real time,.

[(p. 4 l 25+ - p. 6 l 5) a remote server, which is configured to conduct a two-phase auction, refers to description of the second phase, which corresponds to the dynamic real-time auction component.].

Claims 54 correspond to claim 33 because the structure and functionality of the claimed system are not distinct from each other. Claim 33 is directed to an online auction while claim 54 is directed to online sale over a computer network. However, the structure of the claims is not distinct. Therefore same rationale of prior rejection as claim 33 also applies to claim 54. Note also that this comment also applies to all independent "system claims".

Johnson teaches that the item in the preliminary bidding portion if the auction is offered for a pre-established duration of time. This pre-established duration of time is defined by starting of the first phase of the auction to the time until a first bidder places a first bid at the offering price (see at least p.14 L 4-12). Johnson also teaches that the dynamic real-time auction component (second phase) begins after closing of the preliminary bidding component upon expiration of the pre-established duration of time (see at least p.14 L 4-12, "This event marks the end of the first phase and the beginning of the second phase..". The pre-determined duration of time therefore expires whenever the first bidder places a bid at current asking price.

8.   Claims, 7-12, 21-26, 40, 50, 56 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson applied to claim 1 and further in view of the Official Notice.

Regarding claims 7-12, Johnson in view of O/N fails to teach, however, further Official Notice is taken that alerting bidder or potential customers for various upcoming events via various communication means such as electronic mail, instant message etc. is old and well known in the electronic commerce.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to implement means for altering the bidders based on this Official Notice because this would allow more bidders to participate in the auction.

Method claims 21-26 correspond to system claims 7-12 respectively.

9.   Claims 40 and 50: Johnson fails to teach offering the plurality of items for bid

simultaneously, and the dynamic real-time auction component offering the items individually.

However, offering a plurality of items simultaneously and offering items individually for sale

over a computer network is old and well known and the examiner takes official notice of this

feature.

It would have been obvious to one of ordinary skill in the art at the time of applicant's
invention to modify Handler in view of the officially noticed facts to offer the plurality of items
in various formats as matter of auctioneer's business decision.

10.   Claims 56 and 59: recites computerized feature equivalent to "going once, going twice,
gone" which is customary in the traditional auctions. It would have been obvious to one of
ordinary skill in the art at the time of applicant's invention to modify Handler to configure the
dynamic auction in Handler accordingly in order to alert the bidders of the impending closing of
the auction.

8.   Claims 3, 4, 13, 14, 17, 18, 27, 28 34-39, 44-49, 55, 57, 58, 60 and 61 are rejected under

35 U.S.C. 103(a) as being unpatentable over Johnson and Officially taken Notice as applied

to claim 1 above, and further in view of Handler.

Claims 3, 4,   13-14 and 27-28: Johnson, fails to teach, however, Handler teaches

that proxy bids are accepted during an auction   (see proxy bidding process, p. 5 L 33-36).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify Johnson in view of Handler because this would improver efficiency of the

auction by allowing more bidders to participate because this would eliminate the need of the

bidder to be physically present.

Method claims 17 and 18 correspond to system claims 3-4 respectively and are analyzed as such.

Claims 34-38 and 44-48 are inherently disclosed in Handler reference. For example, Handler teaches at p. 6 L 11 described various stages of the "integrated auction". Note that the "live auction" commences after the closing of the "online auction" and that the additional proxy bids are only accepted after the conclusion of the live auction. Claims 44-48 are also analyzed accordingly because they correspond to claims 34-38 respectively.

Claim 39 and 49: Handler teaches first bidding format (proxy bidding) and the dynamic real-time auction component provides a different bidding format (see Integrated Auction Flow, p. 6).

Claim 55 and 58 : Johnson and O/N discloses this feature inherently because, if during the second stage (live auction stage) no higher bid than the starting bid established during the preliminary bidding stage is received the starting bid would be the highest bid and therefore a winning bid.

Claims 57: the dynamic auction component is configured to accept, for each of the plurality of the items, a dynamic bid greater than the final preliminary bid received for the respective item during the preliminary bidding component (inherent in the Handler apparatus because the objective of the second stage of the integrated auction is maximize price of the one more items offered in the auction).

Claims 60 and 61: refer to discussion of claim 57.

11.   Claims 41 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Johnson in view of O/N as applied to claim 1 as analyzed above, and further in view of Walker

(US 20060224497, Priority us-provisional-application US 60152119 19990902).

        Johnson and O/N combined fail to teach, however, Walker (US 20060224497, Priority
us-provisional-application US 60152119 19990902) teaches behavior of the bidders (bid
increment) as a function of the time allotted between dynamic bids (see Summary).

        It would be obvious to one of ordinary skill in the art at the time of applicant's invention
to modify Johnson and O/N combination in view of Walker to decrease the time allotted between
dynamic bids because this would influence the behavior of one or more bidders in an auction
may influence another bidder's perception of the value of the item.

12.   Claims 42-43 and 52-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Johnson in view of O/N as applied to claim 1 as analyzed above, and further in view of Peterson

(CA 2329281), Publication 06/21/2002.

Claims 42-43 and 52-53: Johnson and O/N fails to teach that the real-time component is

configured to provide, for each of the plurality of items, a matrix of selectable bid amounts for

selection by a user.   Peterson, in the same field of endeavor teaches buttons, which enable the

bidders to select, bids from different adaptive (dynamic) bid increments in a dynamic auction.

(see p.3 and 4).

        It would have been obvious to one of ordinary skill in the art at the time of the invention

to modify Johnson and O/N by incorporating a matrix of selectable bid amounts as per teaching

of Peterson because this would spur additional bidding activity in a dynamic auction

environment because the bidder would be enabled to enter bids faster and accurately, where short

time period is available to each bidder to select and enter the next bid vb.

Conclusion

13.   Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from

the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the

mailing date of this final action and the advisory action is not mailed until after the end of the

THREE-MONTH shortened statutory period, then the shortened statutory period will expire on

the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

calculated from the mailing date of the advisory action. In no event, however, will the statutory

period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to JAGDISH PATEL whose telephone number is (571) 272-6748.

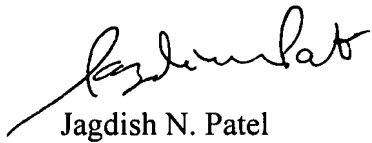The examiner can normally be reached on 800AM-630PM Mon-Tue and Thu.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, **KRAMER JAMES A** can be reached on **(571)272-6783**. The fax phone number

for the organization where this application or proceeding is assigned is 517-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 3693

Jagdish N. Patel

(Primary Examiner, AU 3693)

5/13/07